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La Gazette de L'État de Poudouchéry

The Gazette of Puducherry

PART - II

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GOVERNMENT OF PUDUCHERRY LABOUR DEPARTMENT

(G.O. Ms. No. 5/Lab./AIL/G/2015, dated 17th March 2015)

NOTIFICATION

Whereas, the Government of Puducherry with a view to enforce the provisions of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (Central Act No. 27 of 1996) (hereinafter referred to as the 'Main Act') has notified rules namely the Puducherry Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Rules, 2001 vide G.O. Ms. No. 25/2001/Lab./AIL/G, dated 28th August 2001 of the official gazette No. 14, dated 29-8-2001 and

accordingly, constituted the Puducherry Building and Other Construction Workers Welfare Board *vide* G.O. Ms No. 44/Lab./AIL/G/2002, dated 23-12-2002 of the official gazette No. 2, dated 14-1-2003. The Building and Other Construction Workers Welfare Cess Act, 1996 (Central Act No. 28 of 1996) (hereinafter referred to as Cess Act) and the Building and Other Construction Workers Welfare Cess Rules, 1998 (hereinafter referred as the Cess Rules) have been enacted for the purpose of collection of cess so as to augment resources for the Board;

And whereas, as per section 2 (1) (d) of the Main Act, “Building and Other Construction Work” means construction, alteration, repairs, maintenance or demolition, of or, in relation to, buildings, streets, roads, railways, tramways, airfields, irrigation, drainage, embankment and navigation works, flood control works including storm water drainage works, generation, transmission and distribution of power, water works including channels for distribution of water, oil and gas installation, electric lines, wireless, radio, television, telephone, telegraph and overseas communication, dams, canals, reservoirs, watercourses, tunnels, bridges, viaducts, aquaducts, pipelines, towers, cooling towers, transmission towers and such other work as may be specified in this behalf by the appropriate Government, by notification but does not include any building or other construction work to which the provisions of the Factories Act, 1948 (63 of 1948), or the Mines Act, 1952 (35 of 1952), apply;

And whereas, as per section 2 (1) (j) of the Main Act “establishment” means any establishment belonging to, or under the control of, Government, anybody corporate or firm, an individual or association or other body of individuals which or who employs building workers in any building or other construction work; and includes an establishment belonging to a contractor, but does not include an individual who employs such workers in any building or construction work in relation to his own residence the total cost of such construction not being more than rupees ten lakhs;

And whereas, as per section 2 (1) (i) of the Main Act “employer” means in relation to an establishment, means the owner thereof, and includes—

- (i) in relation to a building or other construction work carried on by or under the authority of any department of the Government, directly without any contractor, the authority specified in this behalf, or where no authority is specified, the head of the department;

(ii) in relation to a building or other construction work carried on by or on behalf of a local authority or other establishment, directly without any contractor, the chief executive officer of that authority or establishment;

(iii) in relation to a building or other construction work carried on by or through a contractor, or by the employment of building workers supplied by a contractor, the contractor;

And whereas, as per section 2 (1) (g) of the Main Act "contractor" means a person who undertakes to produce a given result for any establishment, other than a mere supply of goods or articles of manufacture, by the employment of building workers or who supplies building workers for any work of the establishment, and includes a sub-contractor;

And whereas, as per section 2 (1) (e) of the Main Act "building worker" means a person who is employed to do any skilled, semi-skilled or unskilled, manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be expressed or implied, in connection with any building or other construction work but does not include any such person—

(i) who is employed mainly in a managerial or administrative capacity; or

(ii) who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature;

And whereas, section 7 of the Main Act provides for mandatory registration of any "establishment" and the Registering Officers and Appellate Officers have been notified *vide* G.O. Ms. No. 33/2001/Lab./G, dated 13-12-2001 (Annexure-1) and G.O. Ms. No. 34/2001/Lab./G, dated 13-12-2001 (Annexure-2), respectively;

And whereas, section 3 of the Cess Act provides for mandatory levy and collection of cess on the "Building and Other Construction Work" and the Government of India *vide* P 18/c Notification No. S-61011/9/95/-RW [SO2899], dated 26-9-1996 has provided that the cess shall be levied @ 1% of the cost of "building and other construction work".

And whereas, the Government of Puducherry has notified the Assessing Officers for assessment of cess under the Cess Act *vide* G.O. Ms No. 23/Lab./AIL/G/2013, dated 26-6-2013 (Annexure-3) and the appellate authority for making any appeal against assessment order *vide* G.O. Ms. No. 22//Lab./AIL/G/2013, dated 26-6-2013 of the official gazette No. 28, dated 9-7-2013 (Annexure-4);

And whereas, the Government of Puducherry has notified the Cess Collectors for collection of cess under the Cess Act *vide* G.O. Ms. No. 8/2002/Lab./AIL/G, dated 5-3-2002 of the official gazette No. 45, dated 12-3-2002 (Annexure-5);

And whereas, section 3(2) of the Cess Act provides that the cess shall be collected from every employer in such a manner and at such time, including deduction at source in relation to a building or other construction work of a Government or of a Public Sector Undertaking or advance collection through a local authority where an approval of such building or other construction work by such local authority is required, as may be prescribed;

Now, therefore, the Lieutenant-Governor, Puducherry is pleased to order:

(i) All Government Departments including Central Governments/Offices/Units/Agencies such as Railways, Airport, Telecom, All India Radio, Doordarshan, CPWD, JIPMER, Coast Guard, Pondicherry University and other Central Institutes, Public Sector Undertakings and other Governmental Agencies/Local Bodies (hereinafter referred as public authorities) carrying out any building and other construction work by themselves shall be registered under section 7 of the Main Act with the concerned Registering Officer;

(ii) All the public authorities carrying out any building and other construction work through contractors or any sub-contractors hired by the main contractors shall ensure that the contractors are registered under section 7 of the Main Act with the concerned Registering Officer;

(iii) All the public authorities shall incorporate registration clause in the tender as well as in the contract agreement. They should verify the registration under section 7 of the Act before commencement of the work;

(iv) All private employers/builders undertaking the work costing more than ₹ 5 crores are directed to get all workers engaged by them registered with the Puducherry Building and Other Construction Workers Welfare Board and that no worker who has not registered with the Board shall be engaged in the construction work;

(v) All the public authorities carrying out any building and other construction work by themselves specified in clause (i) above shall remit the cess amount @ 1% of the total cost of the construction by way of crossed demand draft, drawn in favour of the Puducherry Building and Other Construction Workers Welfare Board, Puducherry within 30 days of making such payment along with a forwarding letter addressed to the Puducherry Building and Other Construction Workers Welfare Board, Puducherry;

(vi) All the public authorities shall in case of building and other construction work specified in clause (ii) above shall deduct the cess amount @ 1% of the total cost of the construction as per the tender notification from the bills at the time of making payment to the contractors by way of crossed demand draft drawn in favour of the Puducherry Building and Other Construction Workers Welfare Board, Puducherry within 30 days of making such payment along with a forwarding letter addressed to the Puducherry Building and Other Construction Workers Welfare Board, Puducherry;

(vii) All plan approval authorities shall after approval of the plan forward a copy of the plan approval to the Assessing Officer appointed for the purpose not later than 30 days. Where the prior approval of the construction work is required from the statutory bodies they shall determine the cess amount based on the G.O. Ms. No. 32/Lab./A1L/G/2013, dated 16-9-2013 (Annexure-6) which is subject to periodical revision and remit the cess amount to the Board through demand draft drawn in favour of the Board along with forwarding letter containing the employer details and amount within 30 days in terms of rule 5(3) of the Cess Rules, 1998. The authorities collecting cess may deduct from the cess collected, or claim from the Board, as the case may be, actual collection expenses not exceeding 1% of the total amount collected/remitted to the Board. A quarterly return on the details of cess collected shall be sent to the Cess Collector with a copy marked to the Secretary, Puducherry Building and Other Construction Workers Welfare Board, Puducherry;

(viii) Where the building and other construction work undertaken by private employers/builders are likely to exceed one year, the employer/builder may pay the entire cess amount in advance or in the alternative, the authorities concerned shall at the time of plan approval obtain from the builder/employer, the stages of construction during the first year and subsequent years including the date on which the cess has to be paid in accordance with rule 4 (2) of the cess rules for each stage in a notarised affidavit and accordingly, the cess may be collected and remitted to the Board;

(ix) As provided under section 2(j) of the Act, in case of individual residential plans, the 1 % cess shall be collected only when the estimated cost is more than ₹ 10 lakhs;

(x) In respect of Group Housing Societies, the managing committee of the society is liable to pay the cess. Where the building is built by the builders, builder shall be liable. In the cases of the collaboration agreements where builder is constructing or has constructed the building in collaboration with the owner of the land / original building on sharing basis, the cess would be recovered from the builder or owner or both as per the collaboration agreement. It shall be ensured that no building plan is approved of by such local bodies without collecting 1% cess;

(xi) In terms of section 4 of the Cess Act, 1996 and rule 7 of the Cess Rules, 1998 every employer of the establishment shall furnish a return in Form-I (Annexure-7) to the concerned Assessing Officer as notified. Similarly, every employer of the establishment covered under this statutory provisions of the Main Act/Rules shall furnish a return in Form-XXXI (Details of workers for registration) (Annexure-8) and Form-XXV (Annual return to the Registering Officer) (Annexure-9) to the Registering Officers/Cess Collectors as required and under rules 243 and 270 of the Puducherry Building and Other Construction Worker Rules, 2001.

(By order of the Lieutenant-Governor)

YASAM LAKSHMI NARAYANA REDDY,
Joint Secretary to Government (Labour).

ANNEXURE-I
GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G.O. Ms. No. 33/2001/Lab./G, dated 13th December 2001)

NOTIFICATION

In exercise of the powers conferred by section 6 of the Building and Other Construction Worker's (Regulation of Employment and Conditions of Service) Act, 1996 (Central Act 27 of 1996), read with the Notification No.S.O.(E), dated 14th July 2000 of the Ministry of Home Affairs, Government of India, New Delhi, the Lieutenant-Governor, Puducherry hereby appoints the officers mentioned in column (2) of the Table below to be the Registering Officers for the purpose of the said Act and defines under column (3) of the said Table the limits within which the Registering Officers shall exercise the powers referred on them by or under the said Act, namely:—

TABLE

Sl. No. (1)	Designation of the officers (2)	Area (3)
1	Labour Officer (Enforcement), Puducherry.	Puducherry, Mahe and Yanam regions.
2	Labour Officer, Karaikal	Karaikal region

(By order of the Lieutenant-Governor)

G. THEVA NEETHI DHAS,
Joint Secretary to Government.

ANNEXURE-2
GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G.O. Ms. No. 34/2001/Lab./G, dated 13th December 2001)

NOTIFICATION

In exercise of the powers conferred by sub-section (1) of section 9 of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (Central Act, 27 of 1996) read with the Notification No.S.O.(E), dated 14th July 2000 of the Ministry of Home Affairs, Government of India, New Delhi, the Lieutenant-Governor, Puducherry hereby nominates the Deputy Labour Commissioner, Puducherry, as the Appellate Officer for the purposes of the said Act.

(By order of the Lieutenant-Governor)

G. THEVA NEETHI DHAS,
Joint Secretary to Government.

ANNEXURE -3

GOVERNMENT OF PUDUCHERRY

LABOUR DEPARTMENT*(G.O. Ms. No. 23/Lab./AIL/G/2013, dated 26th June 2013)*

NOTIFICATION

In pursuance of clause (g) of rule 2 of the Building and Other Construction Workers Welfare Cess Rules, 1998 and in supersession of G.O.Ms.No.9/2002/Lab./G/, dated 5-3-2002 published in Extraordinary Gazette No. 45, dated 12-3-2002, save as respects things done or omitted to be done before such supersession, the Lieutenant-Governor, Puducherry, hereby appoints the officers mentioned under column (2) of the Table below to be the Assessing Officers for the areas mentioned under column (3) of the said Table for the purpose of assessment of cess under the Building and Other Construction Workers Welfare Cess Act, 1996 (Central Act 28 of 1996), namely:—

TABLE

Sl. No.	Designation of the officers	Area
(1)	(2)	(3)
1	Assistant Engineer-I (Planning), Central Office, Public Works Department, Puducherry.	Puducherry region
2	Assistant Engineer (Planning), Buildings and Roads Division, Public Works Department, Karaikal.	Karaikal region
3	Assistant Engineer (Planning), Public Works Department, Mahe.	Mahe region
4	Assistant Engineer (Planning), Public Works Department, Yanam.	Yanam region

(By order of the Lieutenant-Governor)

G. SRINIVAS,

Joint Secretary to Government (Labour).

ANNEXURE-4

GOVERNMENT OF PUDUCHERRY

LABOUR DEPARTMENT*(G.O. Ms. No. 22/Lab../AIL/G/2013, dated 26th June 2013)*

NOTIFICATION

In pursuance of clause (h) of rule 2 of the Building and Other Construction Workers Welfare Cess Rules, 1998 and in supersession of G.O. Ms. No. 10/2002/Lab./G, dated 5-3-2002 published in Extraordinary Gazette No. 45, dated 12-3-2002, save as respects things done or omitted to be done before such supersession, the Lieutenant-Governor, Puducherry, is pleased to appoint the Executive Engineer (Planning), Central Office, Public Works Department, Puducherry, as the Appellate Authority for the purpose of section 11 of the Building and Other Construction Workers Welfare Cess Act, 1996 (Central Act 28 of 1996) for the whole of the Union territory of Puducherry.

(By order of the Lieutenant-Governor)

G. SRINIVAS,

Joint Secretary to Government (Labour).

ANNEXURE-5

GOVERNMENT OF PUDUCHERRY

LABOUR DEPARTMENT*(G.O. Ms. No. 8/2002/Lab./G., dated 5th March 2002)*

NOTIFICATION

In pursuance of clause (f) of rule 2 of the Building and Other Construction Workers Welfare Cess Rules, 1998, the Lieutenant-Governor, Puducherry hereby appoints the officers mentioned under column (2) of the Table below to be the Cess Collectors for the areas mentioned under column (3) of the said Table for the purpose of collection of cess under the Building and Other Construction Workers Welfare Cess Act, 1996 (Central Act 28 of 1996), namely:—

TABLE

Sl. No.	Designation of the officers	Area
(1)	(2)	(3)
1	Labour Officer (Enforcement), Puducherry.	Puducherry, Mahe and Yanam regions.
2	Labour Officer, Karaikal	Karaikal region

(By order of the Lieutenant-Governor)

G. THEVA NEETHI DHAS,
Joint Secretary to Government.

ANNEXURE-6

GOVERNMENT OF PUDUCHERRY

LABOUR DEPARTMENT

(G.O. Ms. No. 32/Lab./AIL/G/2013, dated 16th September 2013)

NOTIFICATION

Whereas, for the benefit of the construction workers in this Union territory, 1% of the cost of construction of the buildings under construction is being collected as cess as per the provisions of Building and Other Construction Workers Welfare Cess Act, 1996 (Central Act 28 of 1996) for the purposes of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (Central Act 27 of 1996);

And whereas, due to non-availability of reliable data on the expenditure involved in the construction of buildings, the collection of cess is not commensurate with the actual cost of the buildings;

And whereas, to derive at a reliable data on the expenditure involved in the construction of buildings, a meeting was held on 22-4-2013 Chaired by the Secretary to Government (Labour) and the officials from the Public Works Department, Puducherry Planning Authority and Labour Department participated in the meeting and in this meeting it was recommended to revise the methods of assessment of cess under the said Act;

Now, therefore, the Lieutenant-Governor, Puducherry has been pleased to order that the cess collected under the provisions of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 shall be calculated on the basis of the following standard value, namely:—

TABLE

Sl. No.	Category of building	Rate per square feet
(1)	(2)	(3)
1	<i>Residential buildings:-</i>	
	RCC frame structure	₹ 1,400 per sq. ft.
	Load bearing structure (Brick work +RCC roof).	₹ 1,200 per sq. ft.
2	<i>Commercial buildings:-</i> (Shops, Malls, Plazzas, Marriage hall, Cinema theatre and any other buildings which has not been mentioned with specific rate).	₹ 1,400 per sq. ft.
3	School buildings	₹ 1,300 per sq. ft.
4	College buildings	₹ 1,400 per sq. ft.
5	<i>Industrial buildings:-</i>	
	(a) With sheet roofing less than 1000 sq. ft. and 1000 sq. ft.	₹ 800 per sq. ft.
	(b) More than 1000 sq. ft.	₹ 1,000 per sq. ft.
	(c) With RCC framed structure	₹ 1,400 per sq. ft.
6	<i>Hotel buildings:-</i>	
	(a) Without lodging	₹ 1,400 per sq. ft.
	(b) With boarding and lodging having 3 star rating and above.	₹ 2,000 per sq. ft.
	(c) Less than 3 stars rating	₹ 1,800 per sq. ft.

(By order of the Lieutenant-Governor)

G. SRINIVAS,

Joint Secretary to Government (Labour).

ANNEXURE-7

FORM-I

(See rule 7)

1. Name of establishment : Registration No. under Building and other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996.
2. Address : Registering Authority
3. Name of work :
4. No. of workers employed :
5. Date of commencement of work : Estimated period of work :
Date Month Year Month Year
6. Estimated cost of construction– Details of payment of cess

Stages	Cost	Amount, challan No. and date	Advance-A Deduction at source-D, Final-F
(1)	(2)	(3)	(4)
1st year			
2nd year			
3rd year			
4th year			
Total:			

Signature of employer:

Name of employer:

Date:

(To be filled by Assessing Officer)

7. Date of completion :
8. Final cost :
9. Date of assessment :
10. Amount assessed :

11. Date of appeal, if any :
12. Date of order in appeal :
13. Amount as per order in appeal :
14. Date of transfer of cess to the :
Board.
15. Amount transferred challan :
No. and date

Signature:

Designation:

ANNEXURE-8

FORM-XXXI

[See rule 270(2)]

PUDUCHERRY BUILDING AND OTHER CONSTRUCTION
WORKERS WELFARE BOARD

Return for the month of.....regarding the details of workers

Name and address of the establishment:

Sl. No.	No. of workers as on the close of previous month	No. and name(s) of the workers who left service during the month	No. and name(s) of workers to be registered	No. of workers as on the close of current month
(1)	(2)	(3)	(4)	(5)

Place:

Name and signature of the employer.

Date:

(Office seal)

ANNEXURE-9

FORM -XXV

[See rule 243]

**ANNUAL RETURN OF EMPLOYER TO BE SENT TO THE
REGISTERING OFFICER**

Year ending 31st December.....

1. Full name and full address of the establishment of the building and other construction work (Place, Post Office, District)
2. Name and permanent address of the establishment.
3. Name and address of the employer.
4. Nature of the building and other construction work carried on
5. Full name of the Manager or person responsible for supervision and control of the establishment.
6. Number of the building workers ordinarily employed.
7. Total number of days during the year on which building workers were employed.
8. Total number of man-days worked by building workers during the year.
9. Maximum number of building workers employed on any day during the year.
10. The number of accident that took place during the year as under-
 - (a) The total number of accidents.
 - (b) The number of accidents resulting in disablement of building workers for less than 48 hours, the number of building workers involved and the number of man-days lost.
 - (c) The number of accidents resulting in disablement of building workers beyond 48 hours but not resulting in any permanent, partial or permanent total disablement, the number of building workers involved, and the number of man-days lost on account of such accidents.

- (d) The number of accidents resulting in permanent partial or total disablement, the number of building workers involved and the number of man-days lost on account of such accidents.
- (e) The number of accidents resulting the deaths of building workers and the number of resultant deaths.

The Chief Inspector or Inspectors appointed by a State Government under the Act shall direct the owners of establishments registered under this Act, to send the copies of annual returns submitted by the employers of registered establishments in respect of the State Government or to the Chief Inspector of Inspection by virtue of provisions of section 60 of the Act.

The Chief Inspector or Inspectors appointed under this Act by a State Government shall direct the owners of such establishments as are registered under this Act by Registering Officers appointed by the concerned State Government to send copies of the annual returns to the Chief Inspector by virtue of provisions of section 60 of the Act.

11. Change, if any, in the management of the establishment, its location, or any other particulars furnished to the Registering Officer in the application for Registration indicating also the dates.

Employer.

Place :

Date :
